

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A REVIEW PURSUANT TO 807 KAR 5:058)	
OF THE 1991 INTEGRATED RESOURCE)	CASE NO.
PLAN OF THE UNION LIGHT, HEAT AND)	91-363
POWER COMPANY)	

O R D E R

This matter arising upon petition of The Union Light, Heat and Power Company ("ULH&P") filed December 20, 1991 and supplemented February 14, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of materials contained in the Technical Appendix to the Cincinnati Gas and Electric Company's ("CG&E") Long-Term Forecast Report filed as a part of ULH&P's Integrated Resource Plan on the grounds that disclosure of the information is likely to cause ULH&P competitive injury, and it appearing to this Commission as follows:

ULH&P, a subsidiary of CG&E, is engaged in the business of providing electric and gas utility service in Northern Kentucky. As part of the review of its Integrated Resource Plan, ULH&P has submitted CG&E's Long-Term Forecast Report, including a Technical Appendix attached as a separate volume to the report. Pursuant to the rule of the Public Utilities Commission of Ohio, the Ohio Commission has granted confidential treatment to the document in its entirety and ULH&P requests the same protection be afforded by this Commission. In the alternative, ULH&P requests that various

portions within the appendix be protected on the grounds that disclosure of the information is likely to cause competitive injury.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 10 categories of information. One category exempted in subparagraph (b) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Although the petition alleges that disclosure of the information is likely to cause it competitive injury, it neither identifies competitors who would benefit from the information, nor does it establish how such information could be used by competitors to the detriment of ULH&P. Therefore, the petition does not satisfy the requirements of the statute and the petition should be denied.

Moreover, ULH&P has not complied with 807 KAR 5:001, Section 7, which provides the procedure for obtaining confidential protection of information filed with the Commission. Subsection

(2)(a)(2) requires a petition seeking confidentiality to attach "one (1) copy of the material which identifies by underscoring, highlighting with transparent ink, or other reasonable means only those portions which unless deleted would disclose confidential material." ULH&P has not filed such a document. Therefore, the petition should be denied.

Furthermore, even if the information is valuable to a competitor, it is not entitled to protection unless it is confidential. The information sought to be protected here, according to the petition, is derived primarily from the Electric Power Research Institute, Inc.'s ("EPRI") Technical Assessment Guide ("TAG") which is available to all members of EPRI and, for a nominal fee, to non-utility, non-members of EPRI. As such, the information contained in the EPRI TAG is regularly used by utilities, consultants, federal and state governmental agencies, ratepayer advocates, and others in the adjudication of utility cases before regulatory bodies, in technical research reports, and other activities. Thus, the information is not confidential and is not entitled to protection.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

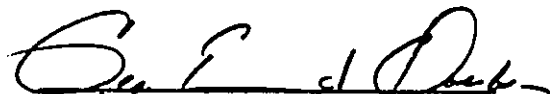
1. ULH&P's petition to protect as confidential the information contained in CG&E's Technical Appendix to its Long-Term Forecast Report be and is hereby denied.

2. The information sought to be protected shall be held and retained by this Commission as confidential for a period of 20 days from the date of this Order, at the expiration of which it

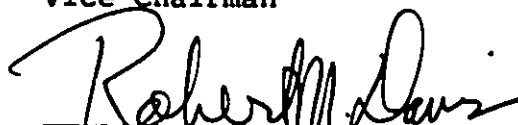
shall be placed, without further Orders herein, in the public record.

Done at Frankfort, Kentucky, this 24th day of March, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director